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COMMISSION ON HUMAN RIGHTS

Subcommission on Prevention of
Discrimination and Protection
of Minorities
Working Group on Indigenous Populations
Thirteenth session
24-28 July 1995
Item 9 of the provisional agenda

CONSIDERATION OF A PERMANENT FORUM FOR INDIGENOUS PEOPLE

Information received from indigenous peoples' organizations

Introduction

1. The recommendation to consider the establishment of a permanent forum for indigenous people in the United Nations system was made in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights. The General Assembly in its resolution 48/163 of 21 December 1993 endorsed the recommendation and requested the Commission on Human Rights to give priority consideration to the question.

2. The Subcommission, in its resolution 1994/50 of 26 August 1994, requested the Secretary-General to invite indigenous organizations to express their views concerning the possible establishment of a permanent forum for indigenous people and to report on the comments and suggestions received to the Working Group on Indigenous Populations at its thirteenth session. The Commission on Human Rights repeated this request in its resolution 1995/30 of 3 March 1995. The present document contains replies received from indigenous organizations with regard to the possible establishment of a permanent forum for indigenous people in the United Nations system. Further replies, if an, will be included in addenda to this document.

"TUPAJ KATARI" INDIAN MOVEMENT

[Original: SPANISH]
[31 May 1995]

I. PERMANENT FORUM

1. The "Tupaj Katari" Indian Movement wishes to contribute to the debate on the establishment of a permanent forum for indigenous people.

2. Endorsing the principles of universality, indivisibility and interdependence of fundamental rights and freedoms proclaimed by the World Conference on Human Rights, the indigenous peoples of the world are rightly demanding fair and equitable recognition of the Indian identity and its representative organizations, not just in terms of ethnic origin or folklore, but as social, political, economic and cultural entities, that is, as subjects of law invested with full authority to participate in national and international affairs.

3. Despite the fact that indigenous peoples have been contributing for centuries to the world's modern societies and civilizations through the diversity of their cultures and their forms and modes of social organization, their descendants are still being discriminated against and harassed in their own countries and marginalized by the international community.

4. In resolutions 1994/45 and 1994/49 of 26 August 1994, the Subcommission on Prevention of Discrimination and Protection of Minorities decided to recommend to the Economic and Social Council that it approve as a matter of priority the participation of indigenous persons and organizations, without regard to consultative status, in discussions on the rights to development, environmental protection, health, education, etc.

5. Contrary to these recommendations, indigenous peoples do not have access to the main meetings concerned with the indigenous question and consequently are deprived of the right to participate in regional and international bodies dealing with human rights, owing precisely to the fact that the vast majority of their organizations are not recognized as having consultative status with the Economic and Social Council.

6. On the threshold of the twenty-first century, a considerable part of the world's population is being marginalized and deprived of the protection of international rules. After 50 years' existence, the United Nations ought to open its doors to the small peoples and national minorities that have no voice in the assemblies of the international community. It is essential that the United Nations system should be democratized in such a way as to meet the challenges of our time.

7. The incorporation of indigenous peoples, and in particular minorities, into the international community ought to be part of the process of ongoing democratization of the organs of the United Nations, including the Security Council.

8. In our opinion, there will be no effective participation by indigenous peoples in United Nations bodies on an equal footing with other non-governmental organizations unless States display the political will to undertake appropriate revision and amendment of Economic and Social Council resolution 1296 (XLIV), the provisions of which have become out of date and have been overtaken by the political events that have occurred in the world.

9. In these circumstances, the permanent forum should meet the legitimate aspirations of the indigenous peoples who are excluded from the international community, are still treated as second-class citizens in their own lands, and, finally, are deprived of any representation in United Nations bodies.

10. In its nature and scope, the forum would have to be a body that would serve as the first democratically open door for all indigenous communities and their representative organizations that do not have consultative status with the Economic and Social Council.

11. In the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, it was recommended that priority consideration should be given to the establishment of a permanent body for indigenous populations within the United Nations.

12. In resolution 48/163 of 21 December 1993, in which it proclaimed the International Decade of the World's Indigenous People, the General Assembly requested the Commission on Human Rights to give priority consideration to the establishment of a permanent forum capable of meeting the age-old demands of millions of Indians for justice, freedom and human dignity.

13. The response to the demands and just aspirations of indigenous nations is a matter for the international community, inasmuch as the debate on the need for a permanent forum challenges and calls in question States' political will.

14. The establishment of a forum is necessary, among other reasons, in order to enable indigenous peoples and nations to play an active part in the planning and implementation of the Programme of Action for the International Decade. It is worth noting once again that the goal of the Decade is "the strengthening of international cooperation for the solution of problems faced by indigenous peoples in areas such as human rights, the environment, development and health" (cf. document E/CN.4/Sub.2/AC.4/1994/11).

15. With that in mind, the effective participation of peoples and their organizations necessarily entails the establishment of a forum, not as yet another bureaucratic body, but as an advisory and operational organ of the United Nations, as a permanent rostrum for those who have no voice, with a permanent secretariat and adequate resources from the United Nations budget.

In short, the forum will enable the indigenous peoples to take an active part in the process of United Nations decision-making, on condition that States recognize indigenous organizations as observers in the General Assembly and other international bodies.

II. MANDATE OF THE FORUM

16. Under the powers conferred upon it, the forum would have the authority to take decisions and make recommendations on questions relating to the right to life and human dignity. It should have the following functions:

(a) To give priority consideration to the right of aboriginal peoples to develop freely, to dispose of their natural wealth and resources, to hold land and to demilitarize their territories;

(b) To investigate the causes of the constant deterioration of the environment and pollution of the air and water and study the preservation of nature through the rehabilitation of forms and modes of social organization from the civilizations of our ancestors;

(c) To give appropriate consideration to such phenomena as discrimination, exclusion, poverty, migration from the countryside, health, education, etc. in close coordination and interdependence with the neo-liberal economic policies and formulas imposed by the international financial institutions;

(d) To promote, coordinate and evaluate international cooperation on behalf of the world's indigenous peoples, in particular the Voluntary Fund for the Decade and the Fund for the Development of Indigenous Peoples in Latin America and the Caribbean;

(e) To draw up and publish reports on economic and social conditions, including the activities of transnational corporations in indigenous territories, and study the question of machinery for protecting the cultural heritage of indigenous peoples;

(f) To promote fundamental rights and freedoms, consider complaints about violations of human rights, formulate appropriate recommendations to the Secretary-General through the Commission on Human Rights and establish a permanent court with the task of passing judgment on violations of indigenous rights and freedoms;

(g) To seek peaceful solutions to disputes and conflicts between indigenous peoples and Governments and to work in the field in close contact with the persons concerned;

(h) To supervise the application of the Declaration and of other international instruments and to set up working groups of experts in fulfilment of the aims set forth in its mandate;

(i) To organize a world conference on the right to self-determination and the right to dispose of one's own natural resources;

(j) To appoint a High Commissioner for Indigenous Peoples, convene the Indigenous Parliament and assess the achievements and progress made under the Programme of Action for the Decade.

III. STRUCTURE OF THE FORUM

17. The composition of the forum should be governed by the criterion of equitable geographical distribution and made up of government representatives, independent experts and indigenous representatives having integrity, moral authority and recognized competence in the various aspects of indigenous affairs.

18. In accordance with the principle of geographical distribution, the forum would be made up as follows: two representatives from South America, two from Central America and the Caribbean, two from the United States and Canada, two from Australia, two from Nordic countries and one representative of the indigenous people of northern Siberia, Russia.

19. The members would speak and vote in the discussions on behalf of their respective organizations. The indigenous candidates should be elected by the organizations they are to represent in the light of their integrity, their moral authority and their competence in indigenous affairs and should be confirmed in office by the Commission on Human Rights for a period to be discussed in the Working Group on Indigenous Populations.

20. Except where decided otherwise, the forum could meet for two weeks a year in the city of Geneva and preferably in countries with a substantial indigenous population and should adopt decisions by a majority of all members present and voting.

21. The forum would be attached to the Centre for Human Rights and should open its doors on an equal footing to all indigenous peoples and their organizations without discrimination and regardless of whether they have consultative status or not. The doors of the forum will also be open to Governments, non-governmental organizations, specialized agencies of the United Nations and figures from the academic world.

22. The Working Group on Indigenous Populations should maintain its independent status, that is, continue to monitor the development of standards and the progress of events in the sphere of human rights; the permanent forum, on the other hand, will have a broader and more complex mandate, covering economic, social and political matters, legal protection of the cultural heritage of indigenous peoples, environmental policy, health, education, etc.

23. The forum should be the appropriate framework for developing, with the full participation of the indigenous peoples, indigenous values, institutions and laws, cultural identity and, in general, the inalienable rights inherent in indigenous nations.

24. In fulfilling its mandate and carrying out its activities in general, the forum should be able to rely on adequate financial, technical and human resources allocated under the regular budget of the United Nations.

LEGAL COMMISSION OF THE TAWANTINSUYANA PEOPLES

[Original: SPANISH]
[28 June 1995]

I. JUSTIFICATION

25. The indigenous peoples of the world, with their status as marginalized majorities, have been and still are, in many countries, the object of discrimination by Governments and the dominant society because of their race. Such discrimination is expressed in many ways, depending on the situation in each country, from simple exclusion from the political life of the State, through lack of opportunities in education and work, to physical elimination of their members, practices that are totally at variance with human morality and contrary to the Charter of the United Nations. This situation has been a matter of constant concern to the United Nations and has been taken up on many occasions in the General Assembly and the Commission on Human Rights.

26. The problem of discrimination against indigenous people and violation of their right to life and their civil, political, economic, social and cultural rights is one of a practice with a universal dimension, the specific nature of which is revolting to the spirit of man, and the international community ought to take steps to prevent, combat and eliminate such practices and compensate for their consequences.

27. In view of the foregoing, the establishment of a forum or some other specialized body to deal with indigenous affairs, make recommendations and carry out authorized activities to promote and protect the full rights of the world's indigenous peoples is not only justified, but is demanded by reason and humanity.

II. NATURE

28. The forum of the indigenous peoples of the world would be established as a body forming part of the United Nations system, coming under the United Nations Secretariat, with deliberative, advisory and executive functions in matters relating to indigenous peoples.

III. PURPOSE

29. The purpose of the forum would be to promote, defend and support the indigenous peoples of the world with unrestricted respect for their right to life and their civil, political, economic, social and cultural rights within a framework of comprehensive development for their full integration into the world community.

IV. FUNCTIONS AND POWERS

30. The general functions and powers of the forum would be as follows:

(a) To discuss indigenous affairs in general, together with specific matters brought before it on a public and participatory basis by organizations and/or persons expert in the matters in question;

(b) To report to the United Nations Secretariat on the problems and questions discussed and propose the action required in each situation;

(c) To advise the institutions in the United Nations system, Governments and public and private organizations on respect for the full rights of indigenous peoples;

(d) To promote respect for the full rights of indigenous peoples, arranging for the signature of conventions, agreements and any other legal instruments;

(e) To organize national and international events of a scientific nature and draw up projects for continuing efforts to create and increase worldwide awareness of the need to respect the full rights of indigenous peoples;

(f) To carry out activities giving direct support to indigenous peoples in such areas as human rights, economic development, cultural identity and any other matter that may be required and justified by a particular situation;

(g) To maintain permanent contact and coordination with the United Nations system, Governments and governmental and non-governmental organizations with a view to planning and executing ongoing measures to deal with the world's indigenous affairs.

V. ORGANIZATION

31. In the exercise of its powers and functions, the fund for the indigenous peoples of the world would adopt the following organization:

Executive body:

Presidency;

Consultative deliberative bodies:

Consultative Council;
Indigenous-Governmental Assembly;

Advisory body:

Technical and Legal Advice Department;

Administrative body:

Administrative Department;

Field bodies:

Promotion and Projects Department;
Direct Support Department.

32. The functions of these bodies and of the various posts will be set forth in the organizational and functional regulations or in the statutes.

INDIGENOUS PARLIAMENT OF AMERICA

[Original: SPANISH]
[23 June 1995]

33. Main questions concerning the establishment of a permanent forum for indigenous people: indigenous representatives should be appointed by agreement between indigenous organizations and Governments.

34. Study of committees, commissions and other existing forums that could serve as models for a future permanent forum for indigenous people: the forum should be wide open so that all positions and viewpoints can be heard.

35. Possible models for the permanent forum and assessment of their advantages and disadvantages, due attention being paid to the following factors: high level and decision-making capacity. United Nations body to which the proposed forum should submit its reports: autonomous forum reporting direct to the General Assembly; otherwise direct to the Economic and Social Council. Mandate and powers: to deal with complaints of violations from indigenous peoples and to work on the consolidation of international legal instruments promoting respect for indigenous rights, and more particularly the draft declaration and proposed convention.

36. Powers: to give greater power to indigenous women and children.

37. Activities that the forum could organize: organization of conferences on matters of interest to indigenous peoples; consultations on specific matters of interest to indigenous peoples; establishment of an efficient system of communication enabling the permanent forum to be informed promptly of any

violation of the rights of indigenous peoples; support for the work of organizations working on aspects of indigenous legislation and promotion of exchanges of experience in this area.

38. Membership: there should be equal representation of Governments and indigenous peoples.

39. Relationship with the Working Group on Indigenous Populations: the Working Group should remain in existence until the permanent forum is well established.

40. Financial implications and secretariat: there should be an executive secretariat financed out of the United Nations' own resources.

41. Other matters: the headquarters of the forum should be in New York.

42. Observations and experiences to be transmitted to the Working Group on Indigenous Populations at its thirteenth session: the Working Group should not disappear until the forum is well established; the Working Group's experience should be put to good use; due account should be taken of the experience and functioning of the forum against apartheid and the forum on women's rights.